

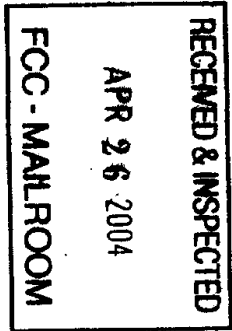
C4C203



Federal Communications Commission
Washington, D.C. 20554

April 22, 2004

James L. Travis, Chief Engineer
Family Life Ministries, Inc.
P.O. Box 506
Bath, New York 14810



Dear Mr. Travis:

This letter is in response to the Petition for Rule Making you filed requesting the reservation of vacant Channel 221A at Amherst, New York for noncommercial educational ("NCE") use.

The Commission has revised the standards for reserving an FM channel for NCE use.¹ Under these revised standards, a reservation proponent must demonstrate that it is technically precluded from using a reserved channel and would provide a first and/or second NCE radio service to at least 10 percent of the population within the 1mV/m (60dBu) contour of its proposed station. This revised reservation policy was later extended to existing vacant FM allotments for which an allocation proceeding was initiated prior to the effective date of these standards.² To implement the revised reservation policy, the Media Bureau opened a filing window to permit interested parties to file a petition for rulemaking in compliance with the revised reservation policy and with the submission of a complete technical preclusion showing.³

The *Public Notice* stated that each petition for rulemaking must contain an expression of interest that the petitioner will apply for the requested channel, if successfully reserved for non-commercial use. In this regard, your petition is unacceptable for consideration because it failed to contain an expression of interest that you would apply for Channel 221A at Amherst, New York, if reserved for non-commercial use.

In addition, Section 1.52 of the Commission's Rules requires that the original of any document filed with the Commission by a party not represented by counsel, be signed and verified by the party and his/her address stated. Although your request was signed and an address provided, you did not include an affidavit verifying that the statements contained in your request are accurate to the best of your knowledge and belief. In the absence of such verification, the petition may be dismissed. Section 1.401(b) of the Commission's Rules concerning rule making proceedings places petitioner on notice that their proposal must conform to the requirements of Section 1.52 regarding subscription and verification. *See also Amendment of Sections 1.420 and 73.3584 of the Commission's Rules Concerning Abuses of the Commission's Processes*, 5 FCC Rcd 3911, n.41 (1990).

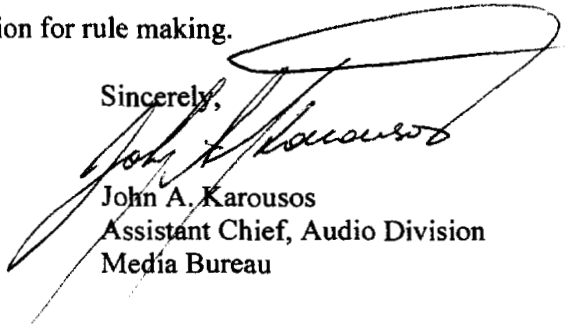
¹ See *Reexamination of the Comparative Standards for Noncommercial Educational Applicant*, 15 FCC Rcd 7386 (2000), *recon granted in part* 16 FCC Rcd 5074 (2001).

² See *Reexamination of the Comparative Standards for Noncommercial Educational Applicant*, 18 FCC Rcd 6691 (2003).

³ See *Media Bureau Opens Window to Permit Noncommercial Educational Reservation Showings for Certain Vacant FM Allotments*, 18 FCC Rcd 19600 (MB 2003) ("Public Notice").

In view of the above, we are returning your petition for rule making.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Karousos", is written over the typed name and title. The signature is fluid and cursive, with a large loop at the end.

John A. Karousos
Assistant Chief, Audio Division
Media Bureau

Enclosure

DUPLICATE

Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

November 17, 2003

RE: Petition for Rulemaking
Allocation 221, Amherst, NY

Family Life Ministries, Inc.
PO Box 506
Bath, NY 14810

RECEIVED & INSPECTED

NOV 19 2003

FCC - MAILROOM

Petition for Rule Making

Family Life Ministries, Inc. is hereby petitioning the Federal Communications Committee to reserve Channel 221, 92.1Mhz, in Amherst, NY, for noncommercial use. According to MM Docket No. 95-31, second report and order, Paragraph 1, opportunity has been given to make this request providing that the applicant can "demonstrate that they are technically precluded from using an already-reserved channel, and that they will provide needed NCE service in a given area".

According to paragraph 33 of MM Docket No. 95-31, second report and order, NCE service is not technically precluded if it is possible to specify a location at which same-class reserved band NCE facilities could be licensed to the proposed community in compliance with the NCE technical rules. A reservation proponent must satisfy two criteria: first, that class maximum facilities at the reference site would provide first or second NCE service to ten percent or more of the population in a station's service area; and second, that a same-class reserved band facility that would provide the requisite level of a new NCE service is – to a reasonable degree of certitude – technically precluded.

According to paragraph 35 of MM Docket No. 95-31, second report and order, a reservation request must include a technical preclusion showing. The showing will be based on a circle, centered in the proposed community of license and drawn with a radius one kilometer less than the distance to the predicted 60dbu strength signal of a maximum same-class facility. The reservation showing must establish that no rule-compliant facility can be authorized at maximum antenna height above average terrain (HAAT) and with maximum effective radiated power (ERP) on any reserved band channel at four equally-spaced locations on the circle, beginning with 0 degrees. In addition, the reservation showing must establish that no same-class rule-compliant facility can be authorized at minimum antenna HAAT and with minimum ERP on any reserved band channel at the city center coordinates for the community of license. If these two criteria are satisfied, the reservation proponent has presumptively established that the allotment should be reserved.

For reference purposes, 6kw at 100 meters HAAT was used at the 4 equally spaced points on the circle as well as at the reference coordinates. At the center of the city of license, 100 watts at 30 meters HAAT was used per CFR 73.211 which states that the minimum acceptable power for a class A facility is 100 watts and the minimum acceptable HAAT is 30 meters.

The attached exhibits show that there are no reserved channels available for use in Amherst, NY. A frequency search and interference study has been performed to evaluate the existing reserved channels, 201 through 220. The results shown in Exhibit 1 give reason why there is no opportunity to apply for an existing reserved channel. In keeping with the criteria established in paragraph 35, Exhibit 2 shows a circle centered in the city of license, Amherst, NY, with a radius of 27km (1km less than the maximum Class A facilities). Four equally spaced locations are marked on the circle beginning with 0 degrees. The coordinates for the 0 degree location are 43-12-54 North Latitude and 78-47-14 West Longitude. The coordinates for the 90 degree location are 42-58-53 North Latitude and 78-27-55 West Longitude. The coordinates for the 180 degree location are 42-45-02 North Latitude and 78-47-39 West Longitude. No coordinates are identified for the 270 degree location as the location is on Canadian Soil. The center of city of license coordinates are also the reference coordinates for the Amherst allocation. Separate interference studies were performed at each of these 5 locations to determine if any already-reserved channel was available for use under the current NCE technical rules.

In keeping with Paragraph 33 of MM Docket No. 95-31, this petition must show that the allocation will provide a first or second noncommercial service to at least 10 percent of the population within the 1mv protected contour. Exhibit 3 shows the 1mv contour of allocation 221 in Amherst, NY, along with any existing noncommercial facilities service contours. As the exhibit shows, this allocation is partially served by existing noncommercial stations WBFO, WBBF, WBNY, and WCOU and entirely served by WBFO. The first and second service area is also shown in this exhibit. A population study utilizing V-Soft ID Census software, has determined that 160,745 people would receive a first or second noncommercial service from the maximum allocation facility. The population within the entire 1mv service area has been determined to be 1,023,147. Using these population figures, at least 10 percent of the population in the 1mv contour would receive first or second noncommercial service.

Due to the above mentioned reasons, Family Life Ministries, Inc. respectfully requests Channel 221, Amherst, NY, be reserved as a noncommercial allocation.

Signature: James L Travis

James L Travis
Chief Engineer
Family Life Ministries, Inc.
PO Box 506
Bath, NY 14810

**Exhibit 1 - Amherst, NY, Interference Results
Family Life Ministries, Inc.**

<u>Frequency</u>	<u>Interfering Overlap With</u>
88.1	WBFO
88.3	WBFO
88.5	WBFO
88.7	WBFO
88.9	WBFO
89.1	WBFO
89.3	WBFO
89.5	WFBF
89.7	WFBF
89.9	WFBF
90.1	WFBF
90.3	WFBF
90.5	AP 214, Lancaster, NY
90.7	AP214, Lancaster, NY
90.9	AP214, Lancaster, NY
91.1	WBNY.A
91.3	WBNY.A
91.5	WBNY.A
91.7	WBNY.A
91.9	WBNY.A

Exhibit 2

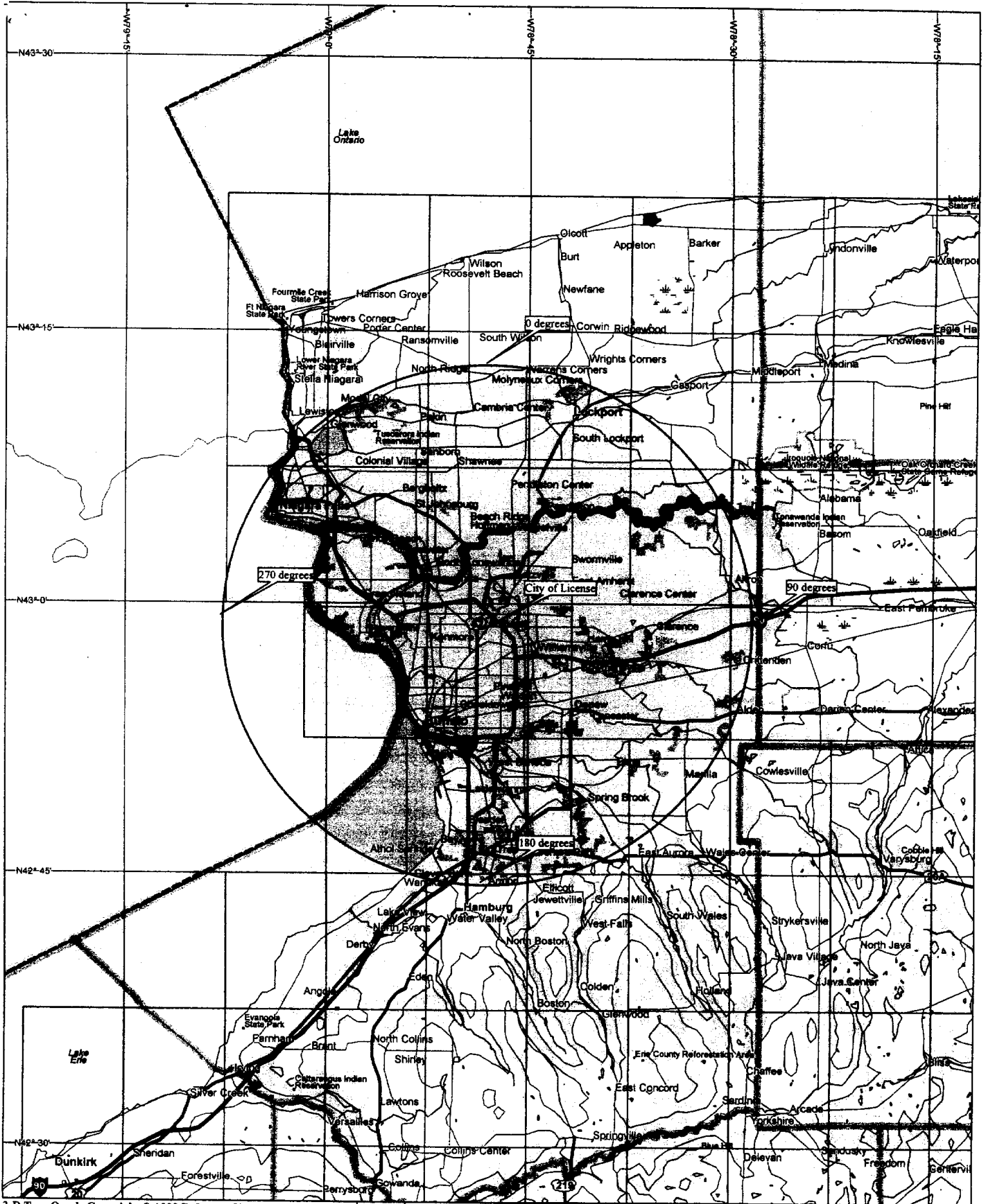


Exhibit 3

